



25 AUG 2006

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In re Application of :  
SCHMEISSER, Dirk :  
Application No.: 10/540,152 :  
PCT No.: PCT/GB03/05492 :  
Int. Filing Date: 17 December 2003 :  
Priority Date: 21 December 2002 :  
Attorney Docket No.: 45-316 :  
For: ROTARY STIRRING DEVICE FOR  
TREATING MOLTEN METAL

DECISION ON REQUEST

This decision is issued in response to applicants' "Petition for Withdrawal of Holding of Abandonment under 37 CFR 1.181(a)(1)" filed in the United States Patent and Trademark Office on 26 July 2006 which is being treated as a "Petition under 37 CFR 1.182." The \$400 petition fee under 37 CFR 1.17(f) will be charged to Deposit Account no. 14-1140.

**BACKGROUND**

On 17 December 2003, applicant filed international application PCT/GB03/05492 which claimed a priority date of 21 December 2002. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 08 July 2004. Accordingly, the thirty-month time period for submitting the requisite basic national fee in the United States of America expired at midnight on 21 June 2005.

On 21 June 2005, applicant filed a Transmittal Letter for entry into the national stage accompanied, *inter alia*, by: the requisite basic national fee; a copy of the international application; and a preliminary amendment.

On 12 December 2005, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration executed by the inventor and the surcharge for filing after the thirty-month period were required.

On 24 July 2006, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF ABANDONMENT indicating, in effect, that the application was abandoned for failure to respond to the Notification of Missing Requirements mailed 12 December 2005.

On 26 July 2006, applicant filed "Petition to Withdrawal of Holding of Abandonment under 37 CFR 1.181(a)(1)" which was accompanied, inter alia, by: copy of the declaration and power of attorney; a post card receipt for application no. 10/450,152; and a copy of a transmittal letter for application no. 10/450,152.

### DISCUSSION

Accordingly, the present petition has been treated as a petition under 37 CFR 1.182 to correct the application number identified on applicant's 25 January 2006 submission to the proper application number, that is, 10/540,152.

The best evidence of what was actually received by the Office is a postcard receipt containing a specific itemization of all the items being submitted. See MPEP 503. Here, applicants have provided a copy of their date-stamped filing receipt. The receipt identifies the application by inventor, title of invention; and the docket number. The receipt itemizes a Declaration for Patent Application. The receipt is stamped "Rec'd. PCT/PTO 25 JAN 2006" across its face. A review of the papers filed 25 January 2006 reveals that the declaration included sufficient information to permit identification of the application to which it was intended to be directed, i.e., national stage application no. 10/540,152.

### CONCLUSION

Applicant's petition under 37 CFR 1.182 is GRANTED. The declaration and power of attorney filed 25 January 2006 was a timely response to the Notification of Missing Requirements mailed 12 December 2005.

A review of the application papers reveals that applicant completed all the requirements of 35 U.S.C. 371 for entry into the national stage. This application will be given an international application filing date of 17 December 2003 and a date of **25 January 2006** under 35 U.S.C. 371.

The application is being returned to the United States Designated/Elected Office for further processing in accordance with this decision.



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